

§ 488.28

42 CFR Ch. IV (10–1–07 Edition)

(c) The State survey agency must adhere to the following principles in determining compliance with participation requirements:

(1) The survey process is the means to assess compliance with Federal health, safety and quality standards;

(2) The survey process uses resident outcomes as the primary means to establish the compliance status of facilities. Specifically surveyors will directly observe the actual provision of care and services to residents, and the effects of that care, to assess whether the care provided meets the needs of individual residents;

(3) Surveyors are professionals who use their judgment, in concert with Federal forms and procedures, to determine compliance;

(4) Federal procedures are used by all surveyors to ensure uniform and consistent application and interpretation of Federal requirements;

(5) Federal forms are used by all surveyors to ensure proper recording of findings and to document the basis for the findings.

(d) The State survey agency must use the survey methods, procedures, and forms that are prescribed by CMS.

(e) The State survey agency must ensure that a facility's actual provision of care and services to residents and the effects of that care on residents are assessed in a systematic manner.

[59 FR 56237, Nov. 10, 1994]

§ 488.28 Providers or suppliers, other than SNFs and NFs, with deficiencies.

(a) If a provider or supplier is found to be deficient with respect to one or more of the standards in the conditions of participation or conditions for coverage, it may participate in or be covered under the Health Insurance for the Aged and Disabled Program only if the facility has submitted an acceptable plan of correction for achieving compliance within a reasonable period of time acceptable to the Secretary.

(b) The existing deficiencies noted either individually or in combination neither jeopardize the health and safety of patients nor are of such character as to seriously limit the provider's capacity to render adequate care.

(c)(1) If it is determined during a survey that a provider or supplier is not in compliance with one or more of the standards, it is granted a reasonable time to achieve compliance.

(2) The amount of time depends upon the—

(i) Nature of the deficiency; and

(ii) State survey agency's judgment as to the capabilities of the facility to provide adequate and safe care.

(d) Ordinarily a provider or supplier is expected to take the steps needed to achieve compliance within 60 days of being notified of the deficiencies but the State survey agency may recommend that additional time be granted by the Secretary in individual situations, if in its judgment, it is not reasonable to expect compliance within 60 days, for example, a facility must obtain the approval of its governing body, or engage in competitive bidding.

[59 FR 56237, Nov. 10, 1994]

§ 488.30 Revisit user fee for revisit surveys.

(a) *Definitions.* As used in this section, the following definitions apply:

Certification (both initial and recertification) means those activities as defined in § 488.1.

Complaint surveys means those surveys conducted on the basis of a substantial allegation of noncompliance, as defined in § 488.1.

Provider of services, provider, or supplier has the meaning defined in § 488.1, and ambulatory surgical centers, transplant centers, and religious non-medical health care institutions subject to § 416.2, § 482.70, and § 403.702 [C8] of this chapter, respectively, will be subject to user fees unless otherwise exempted.

Revisit survey means a survey performed with respect to a provider or supplier cited for deficiencies during an initial certification, recertification, or substantiated complaint survey and that is designed to evaluate the extent to which previously-cited deficiencies have been corrected and the provider or supplier is in substantial compliance with applicable conditions of participation, requirements, or conditions for coverage. Revisit surveys include both offsite and onsite review.